

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FEDERAL TRADE COMMISSION,

Plaintiff,

vs.

AMG SERVICES, INC., *et al.*,

Defendants.

2:12-cv-00536-GMN-VCF

**ORDER DENYING EMERGENCY MOTION
FOR AN EXPEDITED BRIEFING
SCHEDULE REGARDING THE TUCKER
DEFENDANTS' MOTION TO STAY (#926)**

Before the court is an Emergency Motion (#926) in which the Tucker Defendants request an expedited schedule for briefing their Motion to Stay the Case in Deference to the SDNY's Parallel Criminal Case filed on February 10, 2016 against Scott Tucker (#932).

On December 9, 2015, Judge Navarro set a briefing schedule for Phase 2 Dispositive Motions (#897). Three summary judgment motions are now pending and require briefing according to that schedule:

1. Defendants Park 269 LLC and Kim C. Tucker's Motion for Summary Judgment (#900) filed on January 19, 2016;
2. Plaintiff's Motion for Summary Judgment (#907) filed on January 20, 2016; and
3. Tucker Defendants' Motion for Summary Judgment (#913) filed on January 20, 2016, with supporting Declaration and Exhibits (#914) filed on January 21, 2016.

Additionally, on January 19, 2016, because Park 269 LLC and Kim C. Tucker combined their Motion for Summary Judgment with a Motion for Discovery Sanctions, the same motion appeared on the docket twice. Once as #899, a Motion for Discovery Sanctions and again as #900 as a Motion for Summary Judgment. The discovery sanctions motion is subject to the same briefing schedule. (#919).

1 The Proposed Order submitted with the Motion for Expedited Briefing Schedule (#926-2), in
2 addition to setting a briefing schedule as requested in the motion, also provides that briefing set in Judge
3 Navarro's December 9, 2015, Order (#897) is "suspended." That relief was not expressly requested in the
4 motion, although there is an assertion that "good cause exists to continue the briefing schedule on the
5 parties' motions for summary judgment." (#926, p. 3).

6 As expressed in the Declaration of Nick J. Kurt (#926-1), the Tucker Defendants maintain that
7 "absent the requested relief . . . the Tucker defendants will essentially provide the Department of Justice
8 a road map of Scott Tucker's planned Criminal Defense," when they file a timely briefs in support of their
9 motion for summary judgment and in opposition to the plaintiff's motion for summary judgment. In their
10 reply (#931) the Tucker Defendants restate their request for a stay of the case as "based on the fact that
11 the Tucker Defendants are now definitively forced to lay out (for the first time) a defense in this civil
12 matter that will provide the Department of Justice with a roadmap to Mr. Tucker's defense in the criminal
13 case." (#931, p.2)

14 After reviewing the briefing with respect to the instant motion and The Tucker Defendants' Motion
15 for Stay, I conclude that suspension of the briefing ordered by Judge Navarro is not warranted. This case
16 has been pending for almost four years. There are over 900 docket entries. When the Tucker Defendants
17 file their briefs due on February 26, 2016 and March 18, 2016, it is unlikely that previously undisclosed
18 facts or arguments will be brought to light. The Tucker defendants and their counsel can weigh the
19 potential benefits and consequences inherent in any filings prepared in this context. Mr. Tucker has,
20 through the use of his Fifth Amendment privilege, navigated these issues throughout the pendency of this
21 case and the ongoing parallel criminal investigation. The filing of a criminal indictment now provides
22 him with further guidance as to his jeopardy in that action. This is not a reason to delay the resolution of
23 this case.

24 Accordingly, IT IS HEREBY ORDERED that the Emergency Motion for an Expedited Briefing
25 Schedule Regarding the Tucker Defendants' Motion to Stay (#926) is DENIED.

1 IT IS FURTHER ORDERED THAT Plaintiff Federal Trade Commission's Motion for Leave to
2 File Surreply in Opposition to Tucker Defendants' Emergency Motion to Expedite (#933) is GRANTED.

3 DATED this 22nd day of February, 2016.

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6 CAM FERENBACH
7 UNITED STATES MAGISTRATE JUDGE
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